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**Before the
Federal Communications Commission
Washington, D.C. 20554**

DEC - 4 2002

**Federal Communications Commission
Office of the Secretary**

In re Consolidated Application of

EchoStar Communications Corporation,
General Motors Corporation,
Hughes Electronics Corporation

CS Docket No. 01-348

For Consent to Transfer Control.

To: The Commission

Notice of Appearance
Motion to Accept Late-filed Appearance



On behalf of over 930 small cable companies, the American Cable Association (“ACA”) files its appearance in the hearing initiated by the Hearing Designation Order in the above-captioned docket, released October 18, 2002 ("Order"). The hearing fees referenced in the Order are inapplicable.¹ ACA also requests that the Commission accept this appearance as submitted one day after the established appearance date

As recognized in ¶ 297 of the Order, ACA is a party in interest to this proceeding, and the public interest requires that the Commission consider any evidence that ACA submits. The instant motion is being couriered to the Commission and mailed to other parties one day after the appearance date.² Applicants will have ample opportunity to

¹ See Public Notice, EchoStar – DIRECTV Merger (CS Docket No. 01-348), Fees for Participating in Hearing (rel. November 14, 2002)

² The Order was sent to all parties on October 28, 2002. The deadline for filing a notice of appearance in response to the Order is 20 days from October 28, 2002, but because November 17, 2002 fell on a

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reply to any evidence submitted by ACA, and no unfair prejudice will result. Further, ACA's other filings in this docket have all been timely. Forfeiture of ACA's hearing rights is an extreme remedy to be employed only when a party's conduct is inexcusable or contumacious.³ Good cause exists insofar as ACA represents the interests of principally very small, rural cable companies and does so on extremely limited financial and personnel resources. In the past weeks, ACA and its representatives have been inundated by member concerns and inquiries concerning retransmission consent demands. The burdens these retransmission consent demands impose on small market cable operators are the subject of a Petition for Inquiry currently pending before the Commission.⁴

For these reasons, ACA respectfully requests the Commission grant this motion and accept this appearance.

Sunday, the deadline is therefore November 18, 2002. See Order at ¶¶ 292 and 297. See also 47 CFR § 1.221(e).

³ See *in re Application of Pine Tree Media, Inc.*, Memorandum Opinion and Order, 9 FCC Rcd. 2770 (1994), citing *Innovative Women's Media Association v. Federal Communications Commission*, 16 F.3d 1287 (D.C. Cir. 1994). See also *In re Application of Nancy Naleszkiewicz*, 7 FCC Rcd. 1797 (1992).

⁴ See *American Cable Association, Petition for Inquiry into Retransmission Consent Practices*, (filed October 1, 2002).

The undersigned verify that they have read this motion, and that to the best of their knowledge after reasonable inquiry, it is well grounded in fact, warranted by existing law, and not interposed for any improper purpose.

Respectfully submitted,

AMERICAN CABLE ASSOCIATION

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November 19, 2002

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of November, 2002, a true and correct copy of the foregoing Motion to File a Late Notice of Appearance and Notice of Appearance of the American Cable Association in the Matter of Application of EchoStar Communications Corporation, General ivioiors Corporation, ana Hughes Electronics Corporation (CS Docket No. 01-348), was submitted to the Federal Communications Commission via hand delivery and served via Federal Express and First Class Mail upon the following:

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